

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

**BRUCE ELLIS, *doing business*
as *Delta Cinema*, ET AL.**

PLAINTIFFS

V.

NO. 4:20CV00032-DMB-JMV

CLARKSDALE PUBLIC UTILITIES, ET. AL.

DEFENDANTS

ORDER

Before the Court are “Plaintiff’s [sic] Motion to Stay Discovery” [117]; Defendant City of Clarksdale’s “Motion to Withdraw as Counsel of Record” [120]; Plaintiffs’ “Supplemental Motion for Stay of Discovery Doc. No. [117]” [121] and supporting memorandum [122]; Plaintiffs’ “Motion in Opposition [sic] to Doc. No. [120], [123], [124]” [126]; “Defendant City of Clarksdale’s Response to Plaintiffs’ Supplement to Their Motion to Stay Discovery” [127]; “Defendant Clarksdale Public Utilities’ Response in Opposition to Plaintiffs’ Supplemental Motion for Stay of Discovery” [128] and supporting memorandum [129]; and “Plaintiffs [sic] Motion in Opposition to Defendants [sic] Doc. [127], [128], and [129]” [130]. The Court has duly considered the submissions of the parties and the record and rules on the motions as follows:

Plaintiffs’ Motion to Stay and Supplemental Motion for Stay [117, 121]

Plaintiffs essentially seek a stay of discovery proceedings in this matter to conserve resources pending rulings on their motions for summary judgment [90, 93] and because the Defendant City asserted a jurisdictional defense in response to those motions. Because the district judge denied Plaintiffs’ motions for summary judgment by Order [133] dated April 16, 2021, which order also debunked Defendant’s jurisdictional defense, Plaintiffs’ motions are

DENIED as moot.

City of Clarksdale's Motion to Withdraw as Counsel of Record and Plaintiffs' "Motion" in Opposition [120, 126]

By Defendant City's motion, Tiffany N. Carey seeks leave to withdraw as counsel for the City because she "has accepted a position elsewhere and is leaving the law firm of Daniel Coker Horton & Bell, P.A.[]; but] Wilton V. Byars III, of the law firm of Daniel Coker Horton & Bell, P.A., has been and will continue to serve as lead counsel of record for City of Clarkdale." The City further contends "[n]o parties will be prejudiced nor the litigation delayed by this withdrawal." In their opposition filing [126], Plaintiffs assert:

COMES NOW, Plaintiffs in the above styled case files this Motion in opposition to the above stated Motions regarding Defendants legal representation. Plaintiffs asserts previous Defense Counsels may have knowledge of acts of perjury committed by the Defendants, or should have known that their representation would result in a violation of Federal and State Law, or reasonably should know that the client is bringing the legal action, or conducting the defense, or asserting a position in the matter, or is otherwise having steps taken, merely for the purpose of harassing or maliciously injuring "Pro se Plaintiffs" in the above cited "Civil Action."

WHEREFORE PREMISES CONSIDERED, Plaintiffs prays this Honorable Court require Defense Counsel seeking Motion to withdraw as Counsel for the above named Defendants to immediately disclose to the Court material evidence the lawyers have come to know is false and misleading and require Counsel to take reasonable remedial measures, including, if necessary, disclosure to the Court the testimony of defendants they reasonably believes is false that violates F.R.CIV.P. Rule 12(b) provisions regarding "Fraud on the Court."

The undersigned finds any objections by Plaintiffs to Defendant's motion are without merit. Indeed, the grounds stated by Plaintiffs in support of their opposition are neither supported by legal authority nor facts. Because the City asserts no objection to Ms. Carey's departure from the case, and the City remains represented by counsel herein, the undersigned

finds no party will be prejudiced by Ms. Carey's withdrawal. Accordingly, the motion to withdraw is GRANTED, and Ms. Carey shall have no further responsibility with regard to representing the City herein. The relief requested in Plaintiffs' opposition motion is DENIED as unfounded.

“Plaintiffs [sic] Motion in Opposition to Defendants [sic] Doc. [127], [128], and [129]” [130]

Plaintiffs made this filing to assert in part a timeliness objection to Defendants' responses to their motion to stay discovery [117]. Because Plaintiffs' motion to stay is moot as determined above, this “motion” is also deemed moot. The other issues raised by the instant filing are likewise deemed moot in view of the rulings above.

SO ORDERED this 19th day of April, 2021.

/s/ Jane M. Virden
U.S. MAGISTRATE JUDGE